IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 24914 of 2003

Between:

1 The District Collector, Cuddapah.
2 The Superintending Engineer, T.G.P. Circle, Cuddapah.

..... PETITIONERS

AND

N.V. Krishnaiah S/o. N.Venkata Swamy
Badvel Cuddapah.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ or proceedings more particularly one in the nature of Writ of Certiorari" calling for the records pertaining to the orders passed in O.A No.2661/03 on the file of Hon'ble A.P.A.T., Hyderabad dated:26-5-03, and quash the same as illegal and arbitrary.

Counsel for the Petitioner: GP FOR SERVICES II

Counsel for the Respondent: MR.B.D.MAHESWARA REDDY

The Court made the following:

ORAL ORDER (PER GB,J.)

The Writ Petition is filed against the order dated 5-4-2003 passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.2661 of 2003.

2. The unofficial respondent was working as Senior Assistant in Telugu Ganga Project. While so, he was declared surplus along with others. In order to accommodate the surplus employees, Government issued G.O.Rt.No.700 Panchayat Raj and Rural Development (MDL.IT) Department, dated 27-4-2002 to the effect that they should be absorbed as Panchayat Secretaries in Panchayat Raj Department. On options having been submitted by the petitioner along with other employees, the District Collector issued orders appointing the petitioner as Panchayat Secretary. But however, after joining the post, after about six months, the petitioner filed O.A. challenging the action of the respondents in absorbing him as a Panchayat Secretary without taking his option prior to his relieve as a Senior Assistant.

3. The learned Tribunal basing on the earlier order passed in a presumably identical situation, allowed the O.A. Against the said order the present Writ Petition has been filed by the Government.

4. Learned Government Pleader submits that the unofficial respondent himself has submitted the option and therefore, the said option shall be acted upon and he is now resiling from the option. He also submits that the facts in O.A.No.10367 are not identical with the facts of the present case and in that case the Tribunal directed the Government Pleader to get instructions from the 1st respondent therein as to whether the conditions stipulated regarding the petitioner submitting the option or not, but the Government was not able to produce the option. In the instant case the employee has admitted in his counter affidavit that he has submitted the option.

5. Under those circumstances, we find that the order of the Tribunal basing on the order of O.A.No.10367 of 2002 is not sustainable in law and the order passed by the Tribunal is set aside and we remit the matter to the Tribunal for fresh consideration to decide the same on its own merits.

6. Accordingly, the Writ Petition is allowed. No costs.

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(G. BIKSHAPATHY, J.)

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(P.S. NARAYANA, J.)

Date: 07-12-2004

ES

That Rule Nisi is made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this **Tuesday the Seventh day of December Two thousand and Four.**

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ASSISTANT REGISTRAR

To

1 The District Collector, Cuddapah.
2 The Superintending Engineer, T.G.P. Circle, Cuddapah.

3 2 CCs to the G.P. for Services II, High Court of A.P. Hyderabad (OUT).

4 2 CD copies.